

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0422P

Income Tax

Calendar Years 1994, 1995, 1996, & 1997

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

STATEMENT OF FACTS

The negligence penalty was assessed on an income tax assessment that resulted from a Department audit conducted for the calendar years 1994, 1995, 1996, & 1997.

The taxpayer produces personal and business checks. The checks are sold in Indiana and outside of Indiana. The taxpayer has a manufacturing facility in Indiana. The taxpayer's domicile is out-of-state.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the negligence penalty should be waived as the error was the result of unintentional oversight. The Department points out that unintentional oversight is inattention.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.

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